

TITLE 8 DEVELOPMENT CODE
DIVISION 9: PLANT PROTECTION AND MANAGEMENT
CHAPTER 4: DESERT NATIVE PLANT PROTECTION.
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89.0401 Purpose.

The County finds that it is in the public interest to preserve and protect specified desert native plants and provide for the conservation and wise use of our desert resources, through regulation, guidelines and enforcement that manage the removal or harvesting of such plants. They are also necessary to augment and coordinate with the State Department of Food and Agriculture in its efforts to implement and enforce the Desert Native Plant Act.

Readopted Ordinance 3341 (1989)

89.0405 Scope.

(a) The provisions of this chapter shall apply to all desert native plants growing on private land within the unincorporated areas of San Bernardino County and to desert native plants growing on public land owned by the County of San Bernardino or the State of California, except as specified by Chapter 1 of this Division and as specified by this section.

(b) Except as otherwise provided by this Division, any person who willfully removes, or harvests or transplants a living desert native plant shall first obtain approval from the County to do so in accordance with the procedures set forth in Sections 89.0115 or 89.0401 et.seq.

Readopted Ordinance 3341 (1989)

89.0410 Commercial Harvesting or Transplanting of Desert Native Plants.

(a) The commercial harvesting of desert native plants shall be prohibited, except as permitted and authorized by the State Department of Food and Agriculture and as specified in the Desert Native Plant Act of 1983, as amended. The San Bernardino County Agricultural Commissioner shall be responsible for the issuance of the appropriate tags, seals and permits required by the State.

(1) Protected desert native plants as specified by Subsection 89.0420(b) may only be removed by a scientific or educational institution which has obtained a permit from the County Agricultural Commissioner for a specified number and species of these plants.

(2) Written permission must be obtained from and signed by the owner of the property on which the plants are located. A copy of the document granting such permission shall be submitted to the County Agricultural Commissioner prior to issuance of the permit.

(b) An application for a Desert Native Plant Commercial Harvesting Permit shall be filed with the County Agricultural Commissioner for review and processing. If it is determined that the proposed harvesting would not require an Environmental Impact Report, the Agricultural Commissioner shall process the permit application in accordance with the provisions of this chapter. If an Environmental Impact Report is required, the Agricultural Commissioner shall proceed only after an Environmental Impact Report is certified, the concerns and issues are addressed, and findings made pursuant to law.

Readopted Ordinance 3341 (1989)

89.0415 Findings for Commercial Harvesting or Transplanting of Desert Native Plants.

The County Agricultural Commissioner or other County Reviewing Authority shall only authorize the commercial harvesting or transplanting of desert native plants listed in Subsection 89.0420(b) subject to the provisions of this chapter only if one (1) or more of the following findings are made:

(a) The desert native plants are to be transplanted or harvested in a manner approved by the County Agricultural Commissioner or other County Reviewing Authority, including any requirement for the issuance of plant tag seals and/or wood receipts.

(b) The desert native plant is to be transplanted to another property within the same plant habitat under the supervision of a Desert Native Plant Expert and the removal of such plant will not adversely affect the desert environment on the subject site.

(c) Any desert native plant on the site which is determined by the Agricultural Commissioner or other County Reviewing Authority as requiring transplanting has or will be transplanted or stockpiled for transplanting in accordance with methods approved by the County Agricultural Commissioner. A Desert Native Plant Expert shall supervise and manage any required transplanting of desert native plants.

(d) The harvesting operation has incorporated all mitigation measures, if any, established by the environmental review action.

(e) The harvesting operator has been notified of the availability of all known plants that are proposed to be removed by construction activity within the vicinity so that these may be used in lieu of those proposed to be harvested.

Readopted Ordinance 3341 (1989)

89.0420 Subject Desert Native Plants.

The following desert native plants are subject to the regulations specified by this Division. In all cases the botanical names shall govern the interpretation of this chapter.

(a) REGULATED DESERT NATIVE PLANTS

The following desert native plants, or any part thereof except the fruit, shall not be harvested or removed except under a permit issued by the Agricultural Commissioner or other applicable County Reviewing Authority:

(1) The following desert native plants with stems two (2) inches or greater in diameter or six (6) feet or greater in height:

(A) *Dalea spinosa* (smoketree).

(B) All species of the genus *Prosopis* (mesquites).

(2) All species of the family Agavaceae (century plants, nolinias, yuccas).

(3) Creosote Rings, ten (10) feet or greater in diameter.

(4) All Joshua trees.

(b) All plants protected or regulated by the State Desert Native Plants Act (i.e. California Food and Agricultural Code 80001 et. seq.) shall be required to comply with the provisions of those statutes prior to the issuance of any County development permit or land use application approval. The County Agricultural Commissioner is the responsible agency for the issuance of any required wood tags, seals or permits.

Readopted Ordinance 3341 (1989)

89.0425 Subject Area.

This chapter is applicable only within the Desert Area as defined by this Title and any parts of the mountain area in which these desert native plants naturally grow in a transitional habitat.

Readopted Ordinance 3341 (1989)

89.0430 Enforcement.

In addition to the enforcement provisions and penalties prescribed in Division 1 of this Title and/or the California Food and Agricultural Code, Division 23, Chapter 7, the following shall apply:

(a) Upon conviction of a violation of this chapter, all Desert Native Plant Harvesting permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the Agricultural Commissioner and no new or additional permits shall be issued to the permittee for a period of one (1) year from the date of conviction.

(b) Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the Agricultural Commissioner and no new or additional permits shall be issued to the permittee at any time in the future from the date of such second conviction.

(c) The County Reviewing Authority may revoke any permit, tags, or seals issued for the purpose of harvesting if the permittee willfully fails to comply with all of the conditions or stipulations of the permit.

(d) Each permit authorizing the harvesting, or possessing of desert native plants or live or dead mesquite, palo verde, or ironwood species of trees which are harvested for wood shall be accompanied by a sufficient number of tags and seals or wood receipt. Such tags, seals, or wood receipts shall be issued, transported, and may be transferred to other parties in accordance with the California Desert Native Plant Act, as amended.

Readopted Ordinance 3341 (1989)

89.0435 Definitions.

Terms and phrases used within this chapter shall be defined by Division 12 of this Title and/or as defined by the California Food and Agricultural Code. The California Food and Agricultural Code definition, if one exists, shall prevail over a conflicting definition in this Code.

Readopted Ordinance 3341 (1989)